

SITUATIONS CREATING SALES TAX NEXUS/E-FAIRNESS

Prior Law

Iowa Code section 423.1(48) defines “retailer maintaining a place of business in this state” or any like term to include any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether that place of business or representative is located here permanently or temporarily, or whether the retailer or subsidiary is admitted to do business within this state pursuant to Iowa Code chapter 490.

New Provisions

Division I of 2013 of Iowa Acts House File 625 adds a rebuttable presumption that a retailer shall be considered to be maintaining a place of business in this state, if any person that has substantial nexus in this state, other than a common carrier, does any of the following:

- Sells a similar line of products as the retailer and does so under the same or similar business name.
- Maintains an office, distribution facility, warehouse, storage place, or similar place of business in this state to facilitate the delivery of property or services sold by the retailer to the retailer’s customers.
- Uses trademarks, service marks, or trade names in this state that are the same or substantially similar to those used by the retailer.
- Delivers, installs, assembles, or performs maintenance services for the retailer’s customers.
- Facilitates the retailer’s delivery of property to customers in this state by allowing the retailer’s customers to take delivery of property sold by the retailer at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in this state.
- Conducts any other activities in this state that are significantly associated with the retailer’s ability to establish and maintain a market in this state for the retailer’s sales.

The presumption may be rebutted by a showing of proof that the person’s activities in this state are not significantly associated with the retailer’s ability to establish or maintain a market in this state for the retailer’s sales.

Additionally, any agreement, contract or ruling, entered into after the effective date of this Act, between a retailer and a state agency that provides that a retailer is not required to collect sales and use tax in this state despite the presence in this state of a warehouse, distribution center, or fulfillment center that is owned and operated by the

retailer or an affiliate of the retailer shall be null and void unless the agreement, contract, or ruling is approved by resolution, by a majority vote of each house of the general assembly.

An additional provision was added to require any person that will make taxable sales of tangible personal property or furnish services to any state agency obtain a permit to collect sales or use tax. The section prohibits a state agency from purchasing tangible personal property or services from any person unless that person has a valid, unexpired permit.

Section Amended_____

Section 1 of 2013 Iowa Acts House File 625 amends section 423.1, subsection 48, Code 2013. Section 2 creates new section 423.13A, Code Supplement 2013. Section 3 amends 423.36, by adding new subsection 1A, Code 2013.

Effective Date_____

July 1, 2013.